

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Cause No. 1:15-cr-0144-TWP-DLM
)	
KEVIN DALE KYNER,)	- 01
)	
Defendant.)	

REPORT AND RECOMMENDATION

On October 25, 2021, the Court held a hearing on the Petition for Warrant or Summons for Offender Under Supervision filed on September 20, 2021. Defendant Kyner appeared in person with his appointed counsel Michael Donahoe. The government appeared by Michelle Brady, Assistant United States Attorney. U. S. Parole and Probation appeared by Officer Troy Adamson.

The Court conducted the following procedures in accordance with Fed. R. Crim. P. 32.1(a)(1) and 18 U.S.C. § 3583:

1. The Court advised Defendant Kyner of his rights and provided him with a copy of the petition. Defendant Kyner orally waived his right to a preliminary hearing.
2. After being placed under oath, Defendant Kyner admitted violation numbers 1. [Docket No. 70.] Government orally moved to dismiss violations number 2 and 3, which motion was granted by the Court.
3. The allegation to which Defendant admitted, as fully set forth in the petition, is:

**Violation
Number**

Nature of Noncompliance

1

“The defendant shall refrain from any unlawful use of a controlled substance.”

On August 16, 2021, the offender submitted a urine sample which tested positive for amphetamine and Cannabinoids and he denied using those substances. The sample was sent to Alere Laboratory where it was confirmed positive for Cannabinoids and methamphetamine. On August 18, 2021, the offender submitted a urine sample which tested positive for cocaine and denied using the substance. The sample was sent to Alere Laboratory where it was confirmed positive for cocaine. On September 13, 2021, the offender submitted a urine sample which tested positive for Cannabinoids. He admitted using the substance prior to the test.

As previously reported, on February 4, 2020, May 11, and June 18, 2021, Mr. Kyner submitted urine samples which tested positive for marijuana. The samples on May 11, and June 18, 2021, were both determined to be diluted and were both laboratory confirmed to be positive.

4. The parties stipulated that:

- (a) The highest grade of violation is a Grade B violation.
- (b) Defendant’s criminal history category is V.
- (c) The range of imprisonment applicable upon revocation of supervised release, therefore, is 18 to 24 months’ imprisonment.

5. The parties jointly recommended a sentence of eighteen (18) months with no supervised release to follow. Defendant requested placement at FCI Terre Haute. Parties agree to self-surrender pending designation.

The Magistrate Judge, having considered the factors in 18 U.S.C. § 3553(a), and as more fully set forth on the record, finds that the Defendant violated the conditions in the petition, that his supervised release should be revoked, and that he should be sentenced to the custody of the

Attorney General or his designee for a period of eighteen (18) months with no supervised release to follow. The Magistrate Judge will recommend placement at FCI Terre Haute or closest to Indianapolis, Indiana. The Defendant is released on current conditions of supervised release pending designation by the Bureau of Prisons.

The parties are hereby notified that the District Judge may reconsider any matter assigned to a Magistrate Judge. The parties waived the fourteen-day period to object to the Report and Recommendation.

Date: 10/26/2021


Mario Garcia
United States Magistrate Judge
Southern District of Indiana

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